THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13687 OF 2006

06.07.2006

Between:

D.Laxman, S/o.(Late) Tukaram

… Petitioner

AND

Chief Commissioner of Land Administration, A.P., Hyderabad
And others

… Respondents

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ORDER:

The petitioner allegedly purchased an extent of Acs.12.19 guntas of agricultural land in survey Nos.295 and 296 of Poppalguda Village of Rajendranagar Mandal in Ranga Reddy District in 1967 and is allegedly in possession and cultivating the same. Having come to know that the land in his possession notified as evacuee property under the provisions of Administration of Evacuee Property Act, 1950 (the Act, for brevity), he allegedly made several representations expressing his willingness for regularization on payment of market value on the ground that his father and himself have enjoyed longstanding possession of the land. The District Collector, the second respondent herein, by letter dated 24.1.2002 sought clarification from the first respondent in regard to regularization on payment of market value. Thereupon, the first respondent allegedly sent a letter dated 25.9.2002 advising that regularization may be considered on condition of realization of market value of the land on the date of application for regularization. However, the second respondent issued a letter No.E3/1835/97 dated 17.3.2005 informing the eptitioner that the lands are not evacuee property lands and that the petitioners has to approach the first respondent for redressal. The petitioner then filed an appeal before the first respondent, who dismissed the same as not maintainable by order dated 07.3.2006. The grievance of the eptitioner is about the memo dated 17.3.2005 of the second respondent as confirmed by order dated 07.3.2006 of the first respondent.

Learned Counsel for the petitioner submits that the conclusion of the first respondent that the memo of the District Collector is an administrative communication against which no appeal would lie and that as the property is not evacuee property appeal under Section 24 of the Act would not be maintainable is erroneous. He points out that in 2002 when the second respondent sought for a clarification from the first respondent, the latter advised the second respondent to consider regularization on payment of market value and, therefore, the

impugned order suffers from non-application of mind. **Per contra**, learned Assistant Government Pleader for Revenue (General) points out that the land in survey Nos.295 and 296 admeasuring Acs.19.16 guntas and Acs.14.19 guntas respectively situated at Popplaguda Village was already allotted to Sri Motilal Chandumal by Government of India in 1970 and, therefore, it ceased to be evacuee property and, therefore, the proceedings under the said Act are not maintainable as held by the first respondent.

Section 2(d) of the Act defines 'evacuee' means any person who left any place in a State (in India) for any place outside the territories or to any place form part of Pakistan on account of civil disturbances on 01.3.1947, or who transferred to Pakistan after 18.10.1949. As per Section 2(f) of the Act, 'evacuee property' means any property of an evacuee and includes any property which has been obtained by any person from a evacuee after 14.8.1947 by any mode of transfer, which is not rendered invalid, by reason of Section 40 of the Act. Be it noted, Section 40 of the Act renders any transfer of evacuee property after 14.8.1947 ineffective. If the property is acquired by the central Government, the same ceases to be evacuee property. Similarly, if the evacuee property is allotted to any person migrated from Pakistan or any person claiming through such person or allotted to an Indian after following the procedure contemplated under the Act, the same ceases to be evacuee property. Notwithstanding longstanding possession any person claim a right to seek regularization in such an event.

In this case, while considering the representation of the petitioner for regularization, on verification of records, the second respondent found that the land in question along with other land was allotted to one Motilal Chandumal by Government of India in 1970. When once it has allotted, it cannot be treated as evacuee property. Therefore, both the authorities were justified in rejecting the application of the petitioner. Secondly, under Section 24 of the Act, an appeal would lie to the Custodian General (first respondent) against any order passed by the custodian against an order made under Sections 7, 40 and 48 of the Act. Section 7 of the Act deals with the issue of notification by the custodian declaring any property as evacuee property. Section 40 of the Act deals with validity of transfers in respect of property declared to be evacuee property and Section 48 of the Act deals with recovery of sum payable to the Government or to the Custodian in respect of evacuee property as arrears of land revenue. In this case, the request

of the petitioner for regularization was rejected on the ground that it is not evacuee property and, therefore, as rightly held by the first respondent an appeal under Section 24 of the Act would not lie.

The writ petition, for the above reasons, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

July 06, 2006
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